

Summary of Twenty-fourth Negotiation Session on New Water Supply and Extended MOU Agreement

Date of Session: December 6, 2004
Place: Santa Rosa Laguna Treatment Plant
Time: 9:00 AM – 12:00 PM

Parties Present and Represented:

Cities: Cotati, Petaluma, Rohnert Park, Santa Rosa, Sonoma and Windsor.
Special Districts: Sonoma County Water Agency, Valley of the Moon WD, North Marin WD and Marin Municipal WD.

Attachment A contains complete list of attendees.

Note: The 24th Negotiation Session was held concurrently with a regularly scheduled WAC Meeting and comprised Items 3, 5 and 7 on the agenda.

Approval of Recap of October 25, 2004 Negotiation Session:

After a recap by John Nelson, JONWRM, Mike Martini, City of Santa Rosa, North Marin Water District, made a motion to approve the minutes and Mike Bierman, City of Petaluma, seconded. All approved.

Water Shortage Allocation Methodology:

Mike Martini said demand hardening remains an issue for Santa Rosa. Responding to concerns heard from other water contractors and, after discussions with Randy Poole, offers new language for Section 3.5. Key new/revised language being:

“ 3.5 (c)(i) In determining “human consumption, sanitation and fire protection” amounts pursuant to Section 3.5, the Agency shall take into account the level of conservation achieved by the Customer and the hardening of demand resulting from such conservation. The allocations pursuant to subsections 3.5(a)(3)(i) shall be determined using the methodology which rewards and encourages water conservation, avoiding for example cutbacks based simply upon a percentage of historic consumption, including among other things basing the amount necessary for “human consumption, sanitation and fire protection” upon no greater than average indoor per capita water use determined from recent filling records for winter water use by all of the Water Contractors; if necessary or appropriate for equitable purposes, the Agency may consider commercial, industrial and institutional water uses separately and determine that element of the subsection 3.5(a)(3)(i) allocation based on winter water use from recent retail billing records for commercial, industrial and institutional uses.

(ii) The fundamental purpose of the “reasonable requirements” provision is to ensure that no Customer receives more water during a shortage than the Customer reasonably needs. In determining “reasonable requirements” pursuant to this Section 3.5, the Agency shall take into account hardening of demand resulting from the level of conservation achieved by the Customer; the Agency may also take into account the extent to which the Customer has developed Recycled Water Projects and Local Supply Projects, and the Customer’s achievement of compliance with the conservation provisions of this Agreement.”

Note: Section 3.6(a)(3) refers to allocation of water due to a deficiency caused by reason of drought, environmental laws or regulations, other causes beyond the control of the Agency, or any change in the amounts of water imported by the Potter Valley Project into the Russian River watershed (whether or not such change is caused by any action or inaction of the Agency).

Discussion ensued on how recycled water, local supply projects, standby wells, and conservation should be taken into account; also, recent comments of State Water Resources Control Board members.

Al Bandur of Sonoma said the WAC needs feedback from the SCWA on Santa Rosa’s suggested language. Toni Bertolero, representing Cotati, said the difference between Agencies who use wells for production vs. retaining them as standby sources needs to be considered. Darrin Jenkins of Rohnert Park said it appears the water contractors need to choose between leaving Section 3.5 intact with some tweaking or pursue wholesale rewrite of the section. Toni Bertelero said she understood keeping 3.5 intact and dealing with the allocation methodology in a side document was appropriate approach. Pam Torliatt said she preferred the WAC not limit its options.

Chris DeGabriele of North Marin Water District asked for any new ideas on allocation methodology. John Nelson said he had held off work on the allocation but had done some preliminary thinking and thought a method of taking conservation goals into account was possible and described one possible approach. As for the local supply issue he said one way to eliminated inequities was to pool local supply for the benefit of all and have the cost of same taken over by the Agency and paid for from rates charged for water. Chris DeGabriele asked that some ideas on resolving the allocation method be prepared for the next session. Pam Torliatt of Petaluma requested they be circulated a week beforehand.

Mike Martini asked whether Section 3.5 was meant to deal solely with a drought type shortage or also limitation of the water right permit. John Nelson said before the recent State Board meeting he would say it applied to a drought but that it now may have to cover the water right limitation case as well.

Jake Mackenzie made a motion that contractors meet individually with SCWA to discuss the language proposed by the City of Santa Rosa on Section 3.5 and to move this item to

the next WAC Negotiation Meeting agenda for further discussion. Mike Martini seconded the motion. All approved.

Several members of the public made comments on this item, including: David Keller, FOER, who supported conservation fees for new development; Don McEnhill, League of Women Voters, who emphasized the value of installing purple piping during street repair and in new development; and Brenda Adelman, RRWPC, who stressed the importance of keeping the focus on water conservation and reuse.

Status of Restructured Agreement Review

Mike Healy of Petaluma said he liked the new language proposed for Section 1.6 but recommended that before any contractor can increase its cap (which now accumulate to 101,000 afa), the Agency perfect its water rights first. Chris DeGabriele said this means VOM will not have enough water. Krishna Kumar said Valley of the Moon's annual cap was based on year 2005 demand and is inadequate and must be remedied. Mike Healy noted that an exception for VOM had to be accommodated. A motion was made by Mike Healy and seconded by Jake MacKenzie that the matter be placed on the January 24th negotiation session agenda for further discussion.

Chris DeGabriele reminded all present that Lake Sonoma and Lake Mendocino offer a combined water storage capacity of 367,500 acre-ft and that these lakes were intended to meet the water supply needs of the SCWA.

Pam Torliatt proposed adopting a goal of not increasing demand on the Russian River and pursuing enhanced conservation efficiency – a near zero footprint approach per comments heard from State Water Resources Control Board members. A motion by Pam to that effect, after discussion, died for lack of a second - concern being expressed that even with recycling and conservation that the current 75,000 afa water right was not enough and the fact that citizens have bought and are paying for the Warm Springs project which has abundant storage. Pam Torliatt then made a motion to discuss new development, efficiency and no net increase of water usage at the January 24 negotiation session. Janet Orchard, City of Cotati, seconded and stated she agreed with the goals of Pam Torliatt. All favored the motion.

Next Agreement Negotiation Session:

Time and Date: 9:00 AM-12:00 PM, January 3, 2004 (to be combined with the Regular WAC Meeting scheduled on this date).
Place: Santa Rosa's Laguna Treatment Plant

Attachments:

- A. List of Attendees, December 6, 2004 Joint WAC and Water Supply Negotiation Session

Attachment A

Attendees at Joint WAC and Water Supply Negotiation Session of December 6, 2004

Chris DeGabriele, North Marin Water District
Drew McIntyre, North Marin Water District
Dennis Rondoni, North Marin Water District
Michael Ban, City of Petaluma
Pam Torliatt, City of Petaluma
Steve Simmons, City of Petaluma
Mike Healy, City of Petaluma
Mike Bierman, City of Petaluma
Al Bandur, City of Sonoma
Mike Fuson, City of Sonoma
Michael Thompson, Sonoma County Water Agency
Kiergan Pegg, Sonoma County Water Agency
Virginia Porter, City of Santa Rosa
Mike Martini, City of Santa Rosa
Jane Bender, City of Santa Rosa
Ron Theisen, MMWD
Paul Helliker, MMWD
Steve Phelps, MMWD
Jon C. Mandell, MMWD
Krishna Kumar, Valley of the Moon Water District
Jake Mackenzie, City of Rohnert Park
Darrin Jenkins, City of Rohnert Park
Matt Mullan, Town of Windsor
Paul Berlant, Town of Windsor
Toni Bertolero, City of Cotati
Janet Orchard, City of Cotati
John Nelson, JONWRM

Public Attendees:

Don McEnhill, League of Women Voters
Brenda Adelman, RRWPC
Tom Yarish, Friends of the Esteros
H.R. Downs, OWL Foundation
David Keller, FOER
Fred Soares, Southwest Neighborhood Alliance
Bob Anderson, United Wine Growers
Jim Downey, Penngrove / Kenwood Water
Paul Stutrud, OWL Foundation